

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOSEPH ROBINSON,

Petitioner,

vs.

**Civil Action 2:16-cv-567
Criminal No. 2:10-cr-53(3)
Chief Judge Sargus
Magistrate Judge King**

UNITED STATES OF AMERICA,

Respondent.

ORDER

This is an action under 28 U.S.C. § 2255 in which Petitioner asks that his sentence be vacated and that he be resentenced. The United States moved to dismiss the *Motion to Vacate under 28 U.S.C. § 2255*, ECF No. 180. *Motion to Dismiss*, ECF No. 181. On September 23, 2016, the United States Magistrate Judge recommended that the *Motion to Dismiss* be denied and that Respondent be directed to address the applicability, if any, of *United States v. Pawlak*, 822 F.3d 902 (6th Cir. 2016), to Petitioner's claim. The Magistrate Judge also recommended that both parties be directed to address the issue of a stay of Petitioner's claim pending resolution of *Beckles v. United States*, No. 15-8544, — U.S. —, 2016 WL 1029080 (U.S. June 27, 2016)(Mem.). See *In re: Embry*, — F.3d —, 2016 WL 4056056 (6th Cir. July 29, 2016). *Report and Recommendation*, ECF No. 184. Although the parties were advised of their right to object to those recommendations and of the consequences of their failure to do so, there has been no objection.

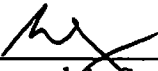
The *Report and Recommendation*, ECF No. 184, is **ADOPTED AND AFFIRMED**.

The *Motion to Dismiss*, ECF No. 181, is **DENIED**.

Respondent is **DIRECTED** to address, within fourteen (14) days, the applicability, if any, of *United States v. Pawlak*, 822 F.3d 902 (6th Cir. 2016), to Petitioner's claim.

Moreover, both parties are **DIRECTED** to address, within fourteen (14) days, the issue of a stay of Petitioner's claim pending resolution of *Beckles v. United States*, No. 15-8544, — U.S. —, 2016 WL 1029080 (U.S. June 27, 2016)(Mem.). *See In re: Embry*, — F.3d —, 2016 WL 4056056 (6th Cir. July 29, 2016).

10-12-2016
Date



Edmund A. Sargus, Jr.
Chief United States District Judge